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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,096	08/26/2003	Douglas R. Dean	205332-9014	5895

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EXAMINER

STERLING, AMY JO

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/650,096

**Applicant(s)**

DEAN ET AL.

**Examiner**

Amy J. Sterling

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 24-42 is/are allowed.  
6) ☒ Claim(s) 1,2,6-9,11-15,17,18 and 23 is/are rejected.  
7) ☒ Claim(s) 3-5,10,16 and 19-22 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This is the first Office Action for application number 10/650,096 Pole Connector Assembly and Method for Racks and Shelving, filed on 8/26/03. Claims 1-42 are pending.

#### ***Double Patenting***

Claims 1, 2, 4-7, 11-14, 18-20 and 22 are rejected under the judicially created doctrine of double patenting over claim 1, 5, 7, 13, 14, 17, 19, 21, 23 and 24 of U. S. Patent No. 6626605 once the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows:

Claims 1, 2, 4 and 12 of Application 10/650096 corresponds to Claim 1 of Patent 6626605 in that they both contain a one-piece insert received within an end of a first pole section a fastener having a first end insertable into an aperture in the pole section, the fastener having a deflectable projection and a base.

Claim 5 of Application 10/650096 corresponds to Claim 19 of Patent 6626605 in that they both contain that the fastener is shaped to engage a tongue and groove connection.

Claim 6 of Application 10/650096 corresponds to Claim 21 of Patent 6626605 in that they both contain a recess in the end of the projection and the projection received within that recess.

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Claims 7, 13, 18-20 and 22 of Application 10/650096 corresponds to Claim 7 of Patent 6626605 in that they both contain that the insert deflects toward an internal surface of the first pole section. Claim 20 of the Application also corresponds to claim 19 of Patent 6626605 in that it contains a snap-fit engagement.

Claim 11 of Application 10/650096 corresponds to Claim 17 of Patent 6626605 in that they both contain a frictional engagement of the fastener.

Claim 14 of Application 10/650096 corresponds to Claim 5 of Patent 6626605 in that they both contain that one portion of the fastener is deflectable to the non-deflecting other portion of the body of the fastener.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

### ***Information Disclosure Statement***

The information disclosure statement submitted on 8/26/03 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There are two "at least one projections", one attached to the insert and one attached to the fastener and it is unclear to which the "at least one projection" is referred to in claim 8.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6-9, 11-15, 17, 18, 23 are rejected under 35 U.S.C. 102(b) as being anticipated by United Kingdom Patent No. 591, 253 to Garbe.

The patent to Garbe discloses a pole connector assembly for the connection of two sections of a pole, the pole connector assembly having an insert (6) dimensioned to be received within an end of a first pole section and a second insert dimensioned to be received within an end of the second pole section, the inserts having a body portion (6) and a base having at least four projections extending therefrom (7), defining the base the projections being deflectable with respect to a remainder portion of the insert

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(See Col. 2 lines 58-62) and shaped to frictionally engage an internal wall of the pole upon deflection and an aperture defined in the body portion, and a U-shaped fastener (5) engagable within the threaded aperture in the body portion of the insert and connectable to a second pole section, the fastener insertable within the insert without appreciable deflection of the insert's at least one projection. Garbe also shows where the first and second inserts have a cap portion (2, 3) with a recessed peripheral edge at least partially defining a circumferential groove about the insert shaped to abut and at least partially covers an end surface of an end of the first pole section upon insertion of the insert into the first pole section, wherein the first and second inserts are in abutting relationship with one another and are connected together by the fastener (5) and a collar portion (3) having an enlarged cross-sectional area relative to the remainder of the fastener.

***Allowable Subject Matter***

Claims 3-5, 10, 16, 19-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 24-42 are allowed.

The reason is that the prior art does not show that the fastener is deformable or deflectable or having a tongue in groove connection or a press fit engagement with the insert aperture.

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***Conclusion***

The following documents are considered pertinent to the disclosure

2003/0118397 to Hasler

6431784 to Kronenberg


6764247 to Kronenberg

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 703-308-3271. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine number for the Technology center is 703-305-3597 or 703-305-3598 (formal amendments) or 703-308-3519 (informal amendments/communications).

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 703-308-2168.



AJS  
Amy J. Sterling  
8/12/04



ANITA KING  
PRIMARY EXAMINER